IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

FAO (MVA) No. 389 of 2003.

Date of Decision: 2nd November, 2007

Smt. Kanta Devi and others	Appellants
Versus	
Guman Singh and others	Respondents

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]? No

For the appellants: Mr. Bimal Gupta, Advocate.

For the respondents: Mr. B.M.Chauhan, Advocate, for respondent No.3.

Sanjay Karol, J. (Oral)

By means of present appeal, the appellants have assailed the award dated 7th May, 2003 passed by learned Accident Claims Tribunal-I, Sirmaur District at Nahan, H.P. In terms of the impugned award the appellants herein have been awarded a sum of Rs.2,82,500/- as compensation towards the claim filed by them being legal heirs of Shri Jagdish Singh, who died in a road accident.

None of the respondents, i.e. the owner of the vehicle and Insurance Company has assailed the award.

Claim Petition No. 25-MAC/2 of 2002, titled as Kanta Devi and others vs. Guman singh and others, was filed before the Accident Claims Tribunal-I, Sirmaur District at Nahan, H.P., inter alia contending

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[1] Whether the reporters of Local Papers are allowed to see the Judgment?

that on 10.1.2002 the truck bearing No.HP-17-5467 met with an accident and Shri Jagdish Singh, who was working as a Cleaner in the ill-fated truck died alongwith two persons.

The Tribunal, after considering the evidence on record arrived at the conclusion that the age of the deceased was 26 years at the time of accident. The claimants were also held to be the legal heirs of said deceased. In the absence of any documentary evidence on record with regard to the income of the deceased, the Tribunal assessed the monthly income of the deceased at Rs.1800/-, based upon the wages payable by the State to a daily wager. The Tribunal arrived at a conclusion that sum contributed by the deceased for the maintenance of his family should be Rs.1500/- per month and thus determined the annual dependency of the deceased to be Rs.18,000/-. Applying the multiplier of '15', the total compensation payable to the claimants was assessed at Rs.2,70,000/-. Apart from that further sum of Rs.5000/- was determined as funeral expenses, Rs.5000/- for loss of consortium and Rs.2500/- for loss of estate.

Learned counsel for the appellants has submitted that determination of annual income and multiplier applied by the Tribunal is incorrect and contrary to record.

Record has been perused. It has come on record that the deceased was working as a Cleaner on the vehicle, which met with an accident on 10.1.2002.

In my view, the multiplier applied by the Tribunal is on the lower side. Considering the age of the deceased as also the dependency of the claimant and based on the material on record, the multiplier of

'18' is just and reasonable in the peculiar facts and circumstances of the present case. As such, the appellants are entitled to compensation of Rs.3,24,000/- (Rs.18,000/ x 18).

The accident is stated to have taken place at a distant place from the permanent resident of the claimant. In these circumstances, a sum of Rs.5000/- awarded as funeral expenses, in my view, is less and should have further enhanced by Rs.5000/-, totaling Rs.10,000/-. The deceased left behind six claimants, out of which three are minor. The loss of consortium assessed at Rs.5000/-, therefore, in my view is on the lesser side and needs to be enhanced by Rs.10,000/-, totaling Rs.15,000/-. However, in my view, the amount awarded by the Tribunal for loss of estate needs no enhancement.

The claimants' witnesses have deposed that the deceased was getting a salary of Rs.3,000/- per month as Cleaner from the owner of the vehicle and in addition thereto was earning Rs.2000/- per month by doing odd jobs. Thus, the total income of the deceased as on the date of death was Rs.5000/- per month. The Tribunal disbelieved the evidence only for the reason that there was no supporting documentary evidence on record to corroborate the same. The Record shows that the owner did not produce any evidence and in fact the Court had to pass adverse order against him. It is these special circumstances which have necessitated in my passing the present order.

The Tribunal has awarded interest @ 9% per annum. The enhanced amount shall also carry interest at the same rate from the date of the petition, which was filed on 4.3.2002 till the date of payment of the enhanced amount.

The respondents are directed to deposit the enhanced amount alongwith interest in the Registry of this Court within 2 months from today.

In view of the above observations, the present appeal is allowed to the above extent.

2nd November, 2007 (Sanjay Karol),
(C) Judge